



South Dakota One Call Notification Board

Larry Englerth
Executive Director

1012 North Sycamore Ave.
Sioux Falls, SD 57110

Tel/Fax (605) 339-0529
Email: exedir@sdonecall.com

TO: FIRST RATE EXCAVATE

FROM: SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

RE: NOTICE OF FAILURE TO ANSWER COMPLAINT

In the Matter of the Complaint OC03-009 filed by Sioux Valley Energy against First Rate Excavate regarding failure to provide forty-eight hour notification prior to the commencement of excavation as required by SDCL 49-7A-5. This Complaint requests that penalties be assessed as an intentional disregard for the statute under SDCL 49-7A-19.

You were previously notified by certified mail that the enclosed complaint as referenced above has been filed with the South Dakota One Call Notification Board against First Rate Excavate. Pursuant to SDCL 49-7A-23 & SDCL 49-7A-24, you were required to answer this complaint in writing, no later than the close of business on August 20, 2003, by filing the original and two copies of the answer at the address listed below and by serving a copy on the complainant. Your office acknowledged receipt of this Complaint OC03-009 on July 31, 2003. No response has been received as of Wednesday, August 27, 2003. This was brought to the attention of Ernie Huizenga on the August 25, 2003 by the Larry Englerth, Executive Director to the South Dakota One Call Notification Board.

Pursuant to SDCL 49-7A-22 a panel of Board members will make a determination of probable cause based on the complaint and associated response. Your failure to respond to this notice will be considered as concurrence that the allegations included in the complaint are accurate. If probable cause is determined, the panel may recommend penalties under SDCL 49-7A-18 & 19. If any financial penalties are assessed in response to Complaint OC03-009, the amount will be based on the factors noted in SDCL 49-7A-26.

Pursuant to SDCL 15-6-55, your failure to answer this Complaint could result in a default judgment being issued against you. Appropriate liens and other legal collection actions could result. You are strongly urged to reply to this Notice in the time frame described above and to obtain the advise of counsel should you have any legal questions.

Procedural questions may be directed to Larry Englerth, Executive Director to the South Dakota One Call Notification Board, at 605-339-0529 or by email to exedir@sdonecall.com.

cc: Ray DeJong, Sioux Valley Energy, Complainant

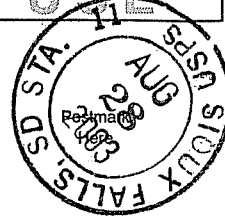
7002 2410 0006 0451 7052

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Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42



Sent To First Rate Excavate
 Street, Apt. No., or PO Box No. 1500 East 39th St. North
 City, State, ZIP+4 Sioux Falls, SD 57104

PS Form 3800, June 2002

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

First Rate Excavate
 1500 East 39th St. North
 Sioux Falls, SD 57104

2. Article Number
 (Transfer from service label)

7002 2410 0006 0451 7052

COMPLETE THIS SECTION ON DELIVERY

A. Signature *[Signature]* ☐ Agent ☐ Addressee
 B. Received by (Printed Name) *[Signature]*
 C. Date of Delivery *8-29-01*
 D. Is delivery address different from item 1? ☐ Yes ☐ No
 If YES, enter delivery address below:

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

PS Form 3811, August 2001

Domestic Return Receipt

2ACPRI-03-Z-0985

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1. Article Addressed to:

First Rate Excavate
 1500 East 39th St. North
 Sioux Falls, SD 57104


2. Article Number

(Transfer from service label)

7002 2410 0006 0451 7076

PS Form 3811, August 2001

COMPLETE THIS SECTION ON DELIVERY

- A. Signature  ☐ Agent ☐ Addressee
- B. Received by (Printed Name) First Rate Excavate C. Date of Delivery 9-22-02
- D. Is delivery address different from item 1? ☐ Yes
 if YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

Domestic Return Receipt

2ACPRI-03-Z-0985